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CLERK U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CMB INDUSTRIES, INC., a Michigan corporation,

Plaintiff,

v.

WATTS INDUSTRIES, INC., a Delaware
corporation, and PACIFIC WATER WORKS
SUPPLY CO., INC., a Washington corporation,

Defendants.

NO. **C98-0688** I

JURY DEMAND

COMPLAINT FOR PATENT
INFRINGEMENT

Plaintiff CMB Industries, Inc. ("CMB") hereby complains and alleges as follows:

I. JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, specifically 35 U.S.C. § 271 and 281.
2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1338(a).
3. Venue is proper in this judicial district under § 1391(b) and 1400(b).

II. JURY DEMAND

4. Plaintiff demands a trial by jury of all issues triable to a jury.

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III. THE PARTIES

5. Plaintiff CMB Industries is a Michigan corporation with its principal place of business in Fresno, California.

6. On information and belief defendant Watts Industries, Inc. ("Watts") is a Delaware corporation with its principal place of business in North Andover, Massachusetts. Watts does business in this judicial district and has committed the acts complained of in this judicial district.

7. Defendant Pacific Water Works Supply Co., Inc. ("Pacific"), is a Washington corporation with its principal place of business in Seattle, Washington. Pacific has committed the acts complained of in this judicial district.

8. CMB is the owner by assignment of U.S. Patent No. 5,107,888 issued April 28, 1992. This patent describes and claims the invention of Charles W. Dunmire, et al. entitled N-Shaped Backflow Preventer. A copy is attached hereto. CMB has developed, manufactures and sells backflow prevention devices which are covered by one or more of the claims of the above patent.

IV. PATENT INFRINGEMENT

9. Plaintiff repeats the allegations of paragraphs 1 through 8.

10. Defendant Watts has been and continues to infringe the '888 patent ("the patent at issue") by making, using, selling and offering for sale without authorization backflow prevention devices which embody one or more claims of the patent. CMB is further informed and believes that Watts will continue to make and sell such infringing devices unless restrained by this Court.

11. Defendant Pacific has infringed the patent at issue by offering for sale a Watts backflow prevention device or devices without authorization which incorporates all of the elements of one or more of the claims of the patent at issue.

12. Watts and Pacific have derived and will continue to derive and receive from the above alleged acts of infringement, profits and revenues in an amount which is not presently known to CMB. Further, such acts of infringement were made with knowledge of at least the patent at issue and were

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1 thus committed intentionally and willfully. By reason of the above acts of infringement, CMB has been
2 and will continue to be damaged in an amount to be determined at trial.

3
4 V. DEMAND FOR RELIEF

5 WHEREFORE CMB prays for relief as follows:

6 A. That defendants be adjudged to have infringed the '888 patent;

7 B. That defendants and their officers, agents, servants, employees, attorneys and all other
8 persons acting in concert, participation or privity with them who receive actual notice of the order by a
9 personal service or otherwise and Watts' successors and assigns be permanently restrained and enjoined
10 from directly or indirectly infringing the '888 patent.


11 C. For an accounting and an award of damages by reason of defendants' infringement of the
12 '888 patent.

13 D. For an award of prejudgment and postjudgment interest, exemplary damages and costs
14 against defendants in accordance with 35 U.S.C. § 284; and

15 E. That CMB be awarded such other further relief as this Court may deem just.

16 DATED this 19th day of May, 1998.

17 BOGLE & GATES P.L.L.C.

18 

19 Robert E. Rohde, WSBA #12809

20 Mark S. Carlson, WSBA #17493

21 Attorneys for Plaintiff

22 CMB Industries, Inc.

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CLERK OF DISTRICT COURT

FILED
JUN 11 1998

BY: [Signature] CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CMB INDUSTRIES, INC.,
a Michigan corporation,

Plaintiff,

v.

WATTS INDUSTRIES, INC.
a Delaware corporation, and
PACIFIC WATER WORKS SUPPLY
CO., INC., a Washington
corporation,

Defendants.

No. C98-0688D

ANSWER OF DEFENDANT WATTS
INDUSTRIES, INC. TO
COMPLAINT FOR PATENT
INFRINGEMENT

Defendant Watts Industries, Inc. ("Watts"), hereby answers
the correspondingly numbered paragraphs of the Complaint for
Patent Infringement of Plaintiff CMB Industries, Inc. ("CMB") as
follows:

1. Admitted.

2. Admitted.

3. Defendant Watts denies that it actually resides within
this district, but admits that it may be deemed to reside within
this district under 28 U.S.C. § 1391(c), and therefore that venue

DEFENDANT WATTS' ANSWER TO COMPLAINT
FOR PATENT INFRINGEMENT 1

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1 is proper in this judicial district under 28 U.S.C. § 1391(b), but
2 denies that § 1400(b) is applicable.

3 4. No response required.

4 5. Defendant Watts is without knowledge or information
5 sufficient to form a belief as to truth of the allegations of
6 Paragraph 5 and therefore denies the same.

7 6. Defendant Watts admits that Watts is a Delaware
8 corporation with its principal place of business in North Andover,
9 Massachusetts and that it has done business in the State of
10 Washington. Each and every remaining allegation of paragraph 6 is
11 denied.

12 7. Defendant Watts admits that Pacific Water Works Supply
13 Co. Inc. is a Washington corporation with its principal place of
14 business in Puyallup, Pierce County, Washington. Each and every
15 remaining allegation of paragraph 7 is denied.

16 8. Defendant Watts admits that U.S. Patent No. 5,107,888
17 ("the '188 patent") issued on April 28, 1992, naming Charles W.
18 Dunmire as inventor. Defendant Watts is without knowledge or
19 information sufficient to form a belief as to the truth of the
20 allegations that CMB has developed, manufactures and sells
21 backflow prevention devices which are covered by one or more
22 claims of the above patents and therefore denies them.

23 9. Defendant Watts repeats and realleges its responses to
24 paragraphs 1-8.

25 10. Denied.

26 11. Denied.

27 12. Denied.

28 DEFENDANT WATTS' ANSWER TO COMPLAINT
FOR PATENT INFRINGEMENT 2

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AFFIRMATIVE DEFENSES

1. Defendant Watts does not infringe and has not infringed, directly, contributorily, or by inducing others to infringe, any valid claim of U.S. Patent No. 5,107,888.

2. Plaintiff's claims are barred by the doctrine of laches and/or estoppel.

PRAYER FOR RELIEF

WHEREFORE, Watts prays that this Court enter judgment:

A. Dismissing the complaint with prejudice.

B. Finding that the '188 patent is not infringed by any actions of Defendant Watts.

C. Ordering that Defendant Watts be granted its costs of the action, including reasonable attorneys fees, and such other and further relief as this Court deems just and warranted under the circumstances.

Respectfully submitted

WATTS INDUSTRIES, INC.

By its attorneys:

DAVIS WRIGHT TREMAINE LLP

Dated: June 11, 1998

By: Alan S. Middleton
Alan S. Middleton
WSBA #18118

Dated: June 9, 1998

By: Heidi E. Harvey
Heidi E. Harvey

DEPENDANT WATTS' ANSWER TO COMPLAINT
FOR PATENT INFRINGEMENT 3

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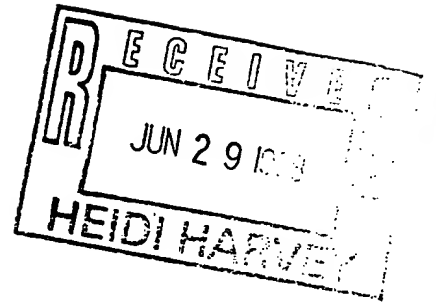
On June 11, 1998, I caused to be served the document(s) entitled ANSWER OF DEFENDANT WATTS INDUSTRIES, INC. TO COMPLAINT FOR PATENT INFRINGEMENT on the interested party(ies) to this action by placing true copies thereof enclosed in a sealed envelope(s) addressed as follows and giving said envelope(s) to a messenger for delivery the same day:

David W. Bever
Carney Badley Smith & Spellman, P.S.
 701 Fifth Avenue, Suite 2200
 Seattle, WA 98104-7091

ington.



Charisse Goodman



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CMB INDUSTRIES, INC., a Michigan
corporation,

Plaintiff,

v.

WATTS INDUSTRIES, INC., a Delaware
corporation, and PACIFIC WATER WORKS
SUPPLY COMPANY, INC., a Washington
corporation,

Defendants.

No. C98-0688D

ANSWER OF DEFENDANT PACIFIC WATER
WORKS SUPPLY CO. INC. TO COMPLAINT
FOR PATENT INFRINGEMENT

Defendant Pacific Water Works Supply Co., Inc. ("PWWS") hereby answers the
correspondingly numbered paragraphs of the Complaint for Patent Infringement of Plaintiff CMB
Industries, Inc. ("CMB") as follows:

1. Admitted.
2. Admitted.

DEFENDANT PACIFIC WATER WORKS SUPPLY CO.,
INC.'S ANSWER TO COMPLAINT FOR PATENT
INFRINGEMENT - 1

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CARNEY
BADLEY
SMITH &
SPELLMAN

LAW OFFICES
A PROFESSIONAL SERVICE CORPORATION
701 FIFTH AVENUE, SUITE 2200
SEATTLE, WA 98104-7091
FAX (206) 467-8215
TEL (206) 622-8020

1
2 3. Defendant PWWS admits that it resides within this district under 28 U.S.C. §1391(c),
3 and therefore that venue is proper in this judicial district under 28 U.S.C. §1391(b), but denies that
4 §1400(b) is applicable.

5 4. No response required.

6 5. Defendant PWWS is without knowledge or information sufficient to form a belief as to
7 truth of the allegations of Paragraph 5 and therefore denies the same.

8 6. Defendant PWWS admits that Watts is a Delaware corporation with its principal place
9 of business in North Andover, Massachusetts, and that it has done business in the State of
10 Washington. Each and every remaining allegation of Paragraph 6 is denied.

11 7. Defendant PWWS admits that Pacific Water Works Supply Co., Inc. is a Washington
12 corporation with its principal place of business in Puyallup, Pierce County, Washington. Each and
13 every remaining allegation of Paragraph 7 is denied.

14 8. Defendant PWWS admits that U.S. Patent No. 5,107,888 ("the '188 patent") issued on
15 April 28, 1992, naming Charles W. Dunmire as inventor. Defendant PWWS is without knowledge or
16 information sufficient to form a belief as to the truth of the allegations that CMB has developed,
17 manufactures and sells backflow prevention devices which are covered by one or more claims of the
18 above patents and therefore denies them.

19 9. Defendant PWWS repeats and realleges its responses to Paragraphs 1-8.

20 10. Denied.

21 11. Denied.

22 12. Denied.

23 AFFIRMATIVE DEFENSES

24 1. Defendant PWWS does not infringe and has not infringed, directly, contributorily, or
25 by inducing others to infringe, any valid claim of U.S. Patent No. 5,107,888.

DEFENDANT PACIFIC WATER WORKS SUPPLY CO.,
INC.'S ANSWER TO COMPLAINT FOR PATENT
INFRINGEMENT - 2

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1
2 2. Plaintiff's claims are barred by the doctrine of laches and/or estoppel.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Pacific Water Works Supply Co., Inc. prays that this Court enter judgment:

5 A. Dismissing the complaint with prejudice.

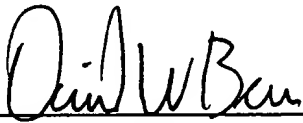
6 B. Finding that the '188 patent is not infringed by any actions of Defendant PWWS.

7 C. Ordering that Defendant PWWS be granted its costs of the action, including
8 reasonable attorney fees, and such other and further relief as this Court deems just and warranted
9 under the circumstances.

10 Dated this 11th day of June, 1998.

11 Respectfully submitted,

12 CARNEY BADLEY SMITH & SPELLMAN, P.S.

13
14 By 
15 David W. Bever
16 WSBA No. 17084

17 Attorneys for Pacific Water Works Supply Co., Inc.
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1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies under the penalty of perjury of the laws of the State of Washington
3 that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State
4 of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action,
and competent to be a witness herein.

5 On the date given below I caused to be served the within document in the manner noted on the
6 following individuals:

7 Robert E. Rohde
8 Bogle & Gates, P.L.L.C.
9 Two Union Square
601 Union Street
Seattle, WA 98101-2346

VIA HAND-DELIVERY

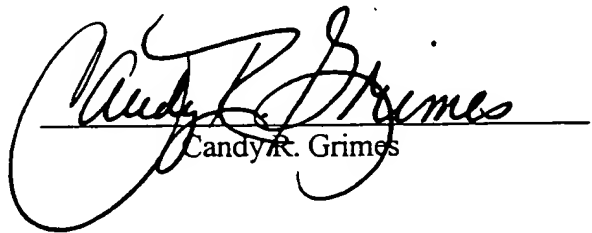
10 Heidi Harvey
11 Fish & Richardson, P.C.
12 225 Franklin Street
Boston, MA 02110-2804

VIA FACSIMILE

13 Alan Middleton
14 Davis Wright Tremaine L.L.P.
15 2600 Century Square
16 1501 Fourth Avenue
Seattle, WA 98101-1688

VIA HAND-DELIVERY

17 **SIGNED and DATED** this 11TH day of June, 1998, at Seattle, Washington.

18 
19 Candy R. Grimes
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